

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Promotion of Competitive Networks
in Local Telecommunications Markets

Wireless Communications Association
International, Inc. Petition for Rulemaking to
Amend Section 1.4000 of the Commission's Rules
to Preempt Restrictions on Subscriber Premises
Reception or Transmission Antennas Designed
to Provide Fixed Wireless Services

Cellular Telecommunications Industry
Association Petition for Rule Making and
Amendment of the Commission's Rules
to Preempt State and Local Imposition of
Discriminatory And/Or Excessive Taxes
Assessments

Implementation of the Local Competition
Provisions in the Telecommunications Act
of 1996

) FCC 99-10001

) WT Docket No. 99-217

) CC Docket No. 96098

96-98

COMMENTS OF SAMUEL L. DOLNICK, CONDOMINIUM HOMEOWNER

Lake Park Condominium Association is located on 25 acres in La Mesa, California containing a total of 46 different buildings. The structure of the buildings follows. 10 buildings are two storied containing 8 units each; 29 buildings are three storied containing 6 units each; 1 building is two storied containing 16 units. In addition there are six elevator buildings: 2 of which are four storied containing 44 units each, 2 of which are 4 storied containing 40 units each, 1 of which is four storied containing 35 units and 1 of which is three storied containing 33 units. There are a total of 506 units composed of studio apartments, one bedroom, two bedroom and three bedroom apartments.

The complex was built in two phases. The first phase completed in 1972 containing a total of 254 units. The second phase was completed in 1975 containing 252 units. In 1978 the complex was converted into condominiums.

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The builder installed a mast antenna, over-the-air television antenna on the highest building in the complex and fed coaxial cable from the antenna to a utility/cable room in each building. Then from the utility/cable room, coaxial cable was fed to the living room and bedrooms in each unit (apartment). This meant that each apartment had from one cable outlet to four cable outlets dependent upon the type of the apartment.

As part of the monthly assessment each owner had access to ten different over-the-air TV channels fed by the mast antenna. All of these channels came in clearly and with good definition.

I was elected president of the condominium association in 1979, one year after the association was formed. In 1980 some owners requested an increase in the number of channels as they found their current service too limiting. We thereupon contacted the only television cable company serving our area in San Diego county. The provider made a survey of the complex and submitted a plan to the board of directors showing how their cable runs would tie into the existing utility/cable room in each building. The plans showed that the cable wires would run from the roofs down the outside of the buildings, go through holes in the stucco walls and terminate in the utility/cable room. In addition, to get the cable wire from Phase 2, where the cable would enter the property, to Phase 1, poles would be erected to carry the wires between the two Phases.

Lake Park governing documents, the Declaration of Covenants, Conditions and Restrictions (CC&Rs) prohibited any wires on the outside of the building and placing holes through the structure. Also the City of La Mesa ordinances prohibited overhead wires through the air; all wires had to be underground.

The board of directors rejected the providers plan as they did not conform to the specifications provided. The provider was also notified that wires could not be placed across the roofs as the roofers told us that all roof warranties would be void should cable personnel work on the roofs.

During the next year, the provider presented four different plans to the board of directors, none of which met the specifications. The fifth plan submitted fulfilled all of the specifications and contract was signed with the provider to supply cable service to all utility cable rooms. It should again be noted that this cable provider was the only cable provider in our geographic area.

The cable provider's system contained paid basic service of 15 tv stations, and for an additional fee an extra 28 channels. Thirty percent of the unit owners immediately signed up for paid television service. 96.3 percent of all 506 owners now had access to free over-the-air television of 15 stations or 43 paid cable television stations. 3.7% of the owners (studio apartments) who had only one television connector in their units had to make a choice between the two systems.

The following year the cable provider presented the board of directors with a bulk package price. This provided that the over-the-air mast antenna would be disconnected and the provider would provide service to all connectors in all units. The per unit price would be 30% lower than what each owner currently tied to their system was then paying. A vote of the membership rejected this plan overwhelmingly.

Shortly thereafter, owners who did not have the provider's system began calling the association office complaining about very poor over-the-air reception. Within a day or two afterward, these same owners received calls

from the provider's sales persons asking if the owners were satisfied with the association's television service and would they like to sign up with the provider.

A check of the utility/cable rooms by the association's television service personnel indicated that the association's mast antenna system connectors located in the utility/cable rooms were loosened to the extent that there was poor ground contact. When these connectors were tightened, excellent reception was restored.

Prior to these complaints, the provider's service personnel were allowed free access to all utility/cable rooms. After the complaints were corrected, the board of directors locked all utility/cable rooms. The provider's service personnel had to come to the association office for the key and thus the board of directors knew to what building the provider went. The person also had to sign in and sign out. By monitoring the provider's service personnel we had no further complaints regarding loose connectors. However, it did cost the association extra expenses for the locks to the forty utility/cable rooms and for the office staff to interrupt their normal duties to give and take the key from the provider's service personnel.

In August 1994, a second provider contacted the board of directors to be able to install three satellite dishes in close proximity to the over-the-air mast antenna system. The board of directors established specifications for the installation which would protect the roof of that building and other requirements based upon the experiences with the previous provider. The second provider agreed to all terms and the contract was signed.

After the installation of the satellite dishes, the owners had access

to three different types of television systems: the association's free 15 channels over-the-air mast antenna, up to 44 channels through cable for a designated fee per month paid to the provider, and up to 44 channels from the satellite dish provider for a designated fee per month paid to that provider. The two commercial providers have monthly fees which are approximately fifty-three per cent differential.

The above specific details are presented to give an actual case study of how the board of directors have the responsibility to act on behalf of the best interests of ALL owners, regardless of claims by the commercial providers.

SUMMARY

During the period of time noted above, if the FCCs forced entry contemplated rules were in effect, no roofer would give a warranty for work done, exposed wires would be on the outside of all building, holes would have been drilled through the outside stucco walls, resulting in all types of hazards and rain leaks and damage to building and internally. Controversies would develop between the association and the providers as to who is at fault. Most likely lawsuits would be filed if a resolution could not be reached. Providers would have control of private property which they do not own and for which they are not responsible. The aesthetics of the complex would be diminished and the market value would suffer.

CONCLUSION

Commercial interests should not be allowed to take private property for their monetary gain. The board of directors, acting on behalf of all

Samuel L. Dolnick
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owners, should make the decisions which the governing documents authorize them to make. Commercial interests should not be allowed to override the will of the owners.

I appreciate the opportunity to Comments to this proceeding.

Respectfully submitted,

A handwritten signature in cursive script, reading "Samuel L. Dolnick", is written over a horizontal line.

Samuel L. Dolnick, Homeowner
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